



Department of Energy
National Nuclear Security Administration
Office of the General Counsel
P. O. Box 5400
Albuquerque, NM 87185



April 30, 2019

SENT VIA EMAIL: 70178-07950531@requests.muckrock.com

MuckRock News
ATTN: Martin Pfeiffer
DEPT MR 70178
411A Highland Avenue
Somerville, MA 02144-2516

Dear Mr. Pfeiffer,

This is the final response to your Freedom of Information Act (FOIA) request dated March 3, 2019, further identified as an email: *From 70178-07950531@requests.muckrock.com, Sunday, March 3, 2019, 6:59 PM, To (G) FOIA Services, Subject: Freedom of Information Act Request: Non-metallic plutonium nuclear explosive usability.*

Your FOIA request contains speculative nuclear weapons design information by a person without a security clearance. The Department of Energy's Classification Bulletin "No Comment Policy" (GEN-16) applies to such speculation.

Any indication by the DOE that documents responsive to your request do or do not exist would be revelatory of Restricted Data as defined in the Atomic Energy Act (AEA) of 1954 as amended, specifically: Section 11, y (1), concerning design, manufacture, or utilization of atomic weapons. Any comment on the efficacy of the speculative nuclear weapons concept described in your FOIA request is Restricted Data. Therefore, in accordance with Section 141 of the AEA regarding control of Restricted Data, the DOE neither confirms nor denies the existence of responsive documents.

Confirmation of the existence or nonexistence of responsive documents is denied under the provisions of 5 USC 552, (b) (3); the relevant statute is the AEA. Under the provisions of the AEA, DOE has no discretionary authority to confirm or deny the existence of responsive documents. The AEA establishes criteria for identifying the confirmation or denial of the existence of responsive documents as Restricted Data. In this matter, the Director of the Office of Classification determined that the criteria has been met.

Pursuant to 10 CFR 1004.6(d), Dr. Andrew P. Weston-Dawkes, Director, Office of Classification, is the official responsible for the denial of your FOIA request.

Pursuant to 10 C.F.R. 1004.8, the denial of a FOIA request may be appealed, in writing, within 90 days after receipt of a letter denying any portion of the request, to the Director, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585. The written appeal, including envelope, must clearly indicate that a FOIA appeal is being made. You may also submit your appeal, via email, to OHA.filings@hq.doe.gov, including the phrase "Freedom of Information Appeal" in the subject line (This is the method preferred by the Office of Hearings and Appeals.) The appeal must contain all elements required by 10 CFR §1004.8, including a copy of the determination letter. Thereafter, judicial review will be available to you in the Federal District Court either: 1) in the district where you reside; 2) where you have your principal place of business; 3) where DOE's records are situated; or 4) in the District of Columbia.

There are no charges to you for processing your FOIA request. If you have questions, please contact Erica White by e-mail at erica.white@nnsa.doe.gov or write to the above address.

Sincerely,



John E. Weckerle
Authorizing and Denying Official